

REMARKS

Claims 1-12 are pending in the application. In the non-final Office Action dated May 30, 2006, the Examiner made the following disposition:

- A.) Rejected claims 1-3 and 5-10 under 35 U.S.C. §101.
- B.) Rejected claims 1-12 under 35 U.S.C. §103(a) as allegedly being unpatentable over *Lehner, et al.* ("*Lehner*") in view of *Foster, et al.* ("*Foster*").

Applicant addresses the Examiner's disposition below. Claims 1, 6, 11, and 12 each have been amended to clarify that it is determined whether the subscriber subscribes to at least one additional datatype after receiving the first datatype, and there is a query for the at least one additional datatype responsive to a determination that the subscriber subscribes to the at least one additional datatype. These amendments are made to clarify the claims and not to distinguish from the cited art. Claims 1 and 6 are also amended as described below.

- A.) Rejection of claims 1-3 and 5-10 under 35 U.S.C. §101:

Regarding claims 1-3 and 5:

Applicant respectfully traverses the rejection. The Examiner alleges that the Applicant admits that claims 1-3 and 5 may be implemented entirely as software per se. *Office Action of 5/30/06*, page 2. Applicant disagrees and makes no such admission. It appears that the Examiner is incorrectly attempting to read a limitation from the specification into the claims.

Claims 1-3 and 5 each clearly claim a method in a data processing system. As acknowledged by the Examiner, a data processing system, such as a computer, is statutory subject matter. *Office Action of 5/30/06*, page 3. Thus, claims 1-3 and 5 do not claim software in the abstract. Instead, claims 1-3 and 5 claim subject matter relating to method steps performed by a program in a data processing system.

However, to expedite prosecution, Applicant has amended claim 1 to clarify that the method is a computer-implemented method.

Regarding claims 6-10:

Claim 6 has been amended to claim a tangible computer-readable medium.

Claims 7-10 depend directly or indirectly from claim 6 and are therefore allowable for at least the same reasons that claim 6 is allowable.

Applicant respectfully submits the rejection has been overcome and requests that it be withdrawn.

B.) Rejection of claims 1-12 under 35 U.S.C. §103(a) as allegedly being unpatentable over *Lehner, et al.* ("*Lehner*") in view of *Foster, et al.* ("*Foster*"):

Applicant respectfully traverses the rejection.

Independent claims 1, 6, 11, and 12 each claim subject matter relating to asynchronously receiving a first datatype at a subscriber. It is determined whether the subscriber subscribes to at least one additional datatype after receiving the first datatype. There is a query for the at least one additional datatype responsive to a determination that the subscriber subscribes to the at least one additional datatype.

This is clearly unlike *Lehner* in view of *Foster*. As acknowledged by the Examiner, *Lehner* fails to disclose asynchronously receiving a datatype at a subscriber. The Examiner combines *Lehner* with *Foster* in an attempt to disclose or suggest Applicant's claimed invention, however, *Foster* is not a valid 35 U.S.C. §102 reference.

The present application was filed on October 22, 2003 and claims priority to provisional patent application no. 60/469,767, which was filed on May 12, 2003. Therefore, the present application has an effective filing date of May 12, 2003.

Foster has a publication date of August 14, 2003, which is later than the present application's effective filing date of May 12, 2003. Therefore, *Foster* cannot be used as a prior art reference under 35 U.S.C. §102. Accordingly, *Lehner* in view of *Foster* still fails to disclose or suggest claims 1, 6, 11, and 12.

Claims 2-5 and 7-10 depend directly or indirectly from claim 1 or 6 and are therefore allowable for at least the same reasons that claims 1 and 6 are allowable.

Applicant respectfully submits the rejection has been overcome and requests that it be withdrawn.

Amendments to the drawings:

Regarding Figure 1, the specification at page 8, line 28, has been amended to describe that the file server 150 includes a file server storage 154. File server storage 154 is also disclosed, for example, in Figures 1, 18, and 19. Figure 1 has also been amended to include a legend for some of the item labels.

Figure 2 has been amended to delete items 244 and 264. Figure 2 has also been amended to include a legend for some of the item labels.

Figure 6 has been amended to replace item --614-- with item --612--, item --616-- with item --614--, and item --618-- with item --616--.

Regarding Figure 7, the specification at page 24, line 17, has been amended to label the text associated with “step 710.”

Figure 9 has been amended to include a textual description.

Figure 18 has been amended to replace item --152-- with item --150--.

Figure 19 has been amended to replace item --152-- with item --150--.

Please replace the drawing sheets for Figures 1, 2, 6, 9, 18, and 19 with the replacement drawing sheets attached to the Submission of Corrected Drawings submitted herewith.

Additional amendments have been made to the specification, as described below to correct informalities.

No new matter is introduced by the amendments made herein.

Amendments to the specification:

The specification at page 20, line 26, has been amended to change the first occurrence of “step 622” to “step 620.”

The specification at page 24, line 7, has been amended to change “step 720” to “step 716.”

The specification at page 26, line 21, has been amended to label the client module API as item 1002, which is also identified in Figure 10.

The specification at page 36, line 21, has been amended to replace item --152-- with item --150--.

The specification at page 44, line 7, has been amended to delete “a draws.”

The specification at page 44, line 22, has been amended to change “Firs” to “First.”

The specification at page 45, line 7, has been amended to change “Its” to “It.”


The specification at page 45, line 23, has been amended to change “step 2606” to “step 2602.”

The specification at page 46, line 29, has been amended to change “intellectual” to “intellectual capital.”

CONCLUSION

In view of the foregoing, it is submitted that claims 1-12 are patentable. It is therefore submitted that the application is in condition for allowance. Notice to that effect is respectfully requested.

Respectfully submitted,

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IN THE DRAWINGS

Please replace the drawing sheets for Figures 1, 2, 6, 9, 18, and 19 with the replacement drawing sheets attached to the Submission of Corrected Drawings submitted herewith.